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PATRICK E. DUFFY

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

GARY JAMES THAUT,)	CV 05-34-H-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
BILL SLAUGHTER; MIKE MAHONEY;)	
DAN CHLADEK; LAURIE DANIELS;)	
CANDYCE NEUBAUER; KEN NEUBAUER)	
OFFICER BRUNO KRAUS; ROXANNE)	
WIGERT and BLAIR HOPKINS,)	
)	
Defendants.)	
)	

United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendation in this matter on November 6, 2006. Plaintiff timely objected on November 14, 2006. Plaintiff therefore is entitled to de novo review of the record. 28 U.S.C. § 636(b)(1).

After conducting a preliminary review of Plaintiff's Complaint, Judge Ostby recommended dismissing all but four of Plaintiff's claims. In his objections, Plaintiff merely restates

many of the allegations in his Complaint. Plaintiff contends his claims are not without merit because he is telling the truth.

At this preliminary stage, the Court does not assess the truth of Plaintiff's claims. Instead, it looks only to whether the law provides a remedy for those claims assuming they are true. I agree with Judge Ostby's conclusion that the law does not provide a remedy for most of Plaintiff's claims. In particular, confining an inmate for twenty-eight days without outdoor exercise does not violate the Constitution; prison officials may consider an inmate's mental health and prior escapes by other inmates in making classification decisions; and Plaintiff does not have standing to assert his claims regarding theft of food by prison employees and the treatment of women, children, Native Americans, and animals.

Accordingly, IT IS HEREBY ORDERED that Judge Ostby's Findings and Recommendation are adopted in full. All claims raised in Plaintiff's Complaint and the amendments thereto are DISMISSED except:

- (1) Plaintiff's allegation that he was improperly classified within the prison in retaliation for writing a number of letters complaining about the prison;
- (2) Plaintiff's allegation that he was retaliated against for complaining about the strip search;
- (3) Plaintiff's allegation that he lost his job for lodging

a complaint against his supervisor; and

(4) Plaintiff's claim that he was strip searched in violation of the Fourth Amendment.

IT IS FURTHER ORDERED that Defendants Slaughter, Mahoney, Chladek, and Hopkins are DISMISSED.

Dated this 24th day of January, 2007.



Donald W. Molloy, Chief Judge
United States District Court
